

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c) WASSERMAN, JURISTA & STOLZ, P.C. 225 Millburn Avenue, Suite 207 PO Box 1029 Millburn, New Jersey 07041 Tele: (973) 467-2700 / Fax: (973) 467-8126 Counsel for Robert B. Wasserman, Chapter 7 Trustee SCOTT S. REVER (SR 1425)
In Re: NICHOLAS TARSIA, Debtor.

Case No.: 12-15709 DHS

Honorable Donald H. Steckroth

Chapter: 7

**MOTION FOR AN ORDER COMPELLING THE DEBTOR TO TURNOVER PROPERTY OF
THE ESTATE AND PRODUCE DOCUMENTS, AND COMPELLING AND DIRECTING
PAYMENTS DUE ON NOTES RECEIVABLE BE PAID TO THE TRUSTEE**

Robert B. Wasserman, the Chapter 7 Trustee (“Trustee”) in the above referenced bankruptcy case, by and through his attorneys, Wasserman, Jurista & Stolz, PC, hereby submits this Motion for an order compelling the Debtor to turnover property of the estate and produce documents, and compelling and directing payments due on notes receivable be paid to the Trustee, and represents to the Court as follows:

1. Nicholas Tarsia filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code on March 6, 2012. Thereafter, Robert B. Wasserman was appointed Chapter 7 Trustee.
2. In the Debtor’s Schedule I filed with his bankruptcy petition, the Debtor reflects monthly income due to him on three notes receivable for a total monthly payment due on notes receivable in the amount of \$8,336.00. Exhibit “A” Schedule I reflects \$5,203.00 due on one note and \$2,833.00 due on two other notes. The notes receivable are not listed as assets in Schedule B.
3. At the 341 meeting, the Debtor produced a mortgage note receivable dated October 2, 2008 reflecting a principal amount due and owing to the Debtor of \$1,250,000.00 from an entity named “Joni Property Trust, LLC” with an address at 22 Beachfront Lane, New Rochelle, New York 10805.

Exhibit "B" The debt is secured by a mortgage on certain real property referenced as Block 5530, Lots 400, 350, 325 and 25, located in the City of Yonkers, County of Westchester in the State of New York. The monthly payment due and owing on this note is \$5,208.33 per month. The balance due and owing on the Note is unknown.

4. The Trustee transmitted a letter to Joni Property Trust, LLC dated April 17, 2012 advising of the bankruptcy filing and demanding that all future payments due and owing under the Note be remitted to the Trustee. Exhibit "C" To date, the Trustee has not heard from Joni Property Trust, LLC in response to the letter.

5. The Trustee does not have a copy of the other two Notes and accordingly, as of this date, the identities of the obligors and the amounts due thereon are unknown.

6. On or about April 17, 2012, Trustee's counsel wrote a letter to Debtor's counsel advising that the notes receivable constitute property of the Debtor's bankruptcy estate under 11 U.S.C. §541, and the Trustee demanded that the Debtor remit any and all post-petition payments received by the Debtor on the notes to the Trustee. Exhibit "D" In addition, the Trustee requested tax returns, none of which were supplied to the Trustee as required under the Code, the original notes, an accounting of the amounts received and due on the Notes, etc. In addition, the Trustee requested deeds, mortgages and mortgage statements relating to certain properties the Debtor owns in Totowa, New Jersey and other documents. To date, the Trustee has not heard from Debtor's counsel in response to the letter.

7. In addition, on or about April 18, 2012, the Trustee served a Rule 2004 Subpoena on the Debtor requiring the Debtor to produce documents by May 4, 2012 and directing the Debtor to appear for a Rule 2004 examination on May 10, 2012. Exhibit "E"

8. The Trustee respectfully requests that this Court enter an order compelling the Debtor to immediately turnover to the Trustee any payments received or to be received on the Notes from the Petition Date. In addition, the Trustee requests the entry of an order compelling the Debtor to

immediately provide the Trustee with all documents requested in the April 17, 2012 letter and Rule 2004 Examination Subpoena, including the original Notes and an accounting of the amounts due thereon so the Trustee can advise the obligors on the other notes to remit payments to the Trustee. The Trustee further requests the entry of an order directing that the obligors on the notes, including Joni Property Trust, LLC, be compelled and directed to remit any and all payments due under the notes directly to the Trustee.

WHEREFORE, the Trustee respectfully requests that this Court enter the order transmitted herewith.

Respectfully submitted,

WASSERMAN, JURISTA & STOLZ, P.C.
Attorneys for Robert B. Wasserman, Chapter 7
Trustee

Date: April 26, 2012

/s/ SCOTT S. REVER
SCOTT S. REVER